

EXHIBIT G

MARK L. LYNNE - 1/17/2014

Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

- - - - -X

JACK REESE, et al., :

Plaintiffs, : Case No.

vs. : 2:04-cv-70592-PJD-PJK

CNH GLOBAL N.V. and CNH :

AMERICA LLC, :

Defendant. :

- - - - -X

Deposition of MARK L. LYNNE

Baltimore, Maryland

Friday, January 17, 2014

9:39 a.m.

Job No. 1-243549

Pages: 1 - 197

Reported by: Dana C. Ryan, RPR, CRR

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1 this class of retirees has now, which is not the
2 2005 plan, comparing that to the proposed plan.

3 Those are very different plans, so I'm --

4 Q You don't --

5 A -- confused about what you're asking.

6 Q You don't understand that one of the
7 factors is whether or not the proposed plan is
8 roughly consistent to what's provided to CNH's
9 current employees?

10 A Is -- would the class of plaintiffs
11 here get everything that was provided to those
12 people? No.

13 So it's not consistent. They were
14 given other things that were part of a
15 negotiation, as I understand it.

16 Q That are not health benefits?

17 A Right.

18 MS. BRAULT: Well --

19 BY MR. ROGACZEWSKI:

20 Q Okay. Let's talk about AT&T --

21 MS. BRAULT: I'm going to place an
22 objection to the last question to the extent it's

1 overly broad and undefined.

2 BY MR. ROGACZEWSKI:

3 Q How did you acquire information about
4 AT&T and Lucent's plans?

5 A I received documents from counsel.

6 Q Okay. What did you ask for to -- that
7 resulted in getting these documents?

8 A Information that would -- that would
9 provide me some -- some insight into what happened
10 with those companies and their negotiations or --
11 or results from court proceedings that -- that
12 might shed a different light than what Mr. Macey
13 was saying.

14 Q You don't identify anything Mr. Macey
15 says about AT&T or Lucent that is factually
16 incorrect; right?

17 A I don't think so, but I think he left
18 some things out.

19 Q I understand that, but I want to be
20 clear that you're not identifying anything that he
21 said that was factually incorrect.

22 A (Witness reviews document.) I -- I

1 don't think so.

2 Q Now, AT&T is a cap situation; correct?

3 A Yeah, as I -- as I understand it, there
4 were caps in place for many years.

5 Q And the caps impose, once the cap is
6 reached, 100 percent of the increased cost on
7 participants; correct?

8 A That's my understanding.

9 Q That's more severe than what the
10 proposed plan does, isn't it?

11 A It is, but those caps were agreed upon
12 by the parties. And, as I understand it, once
13 there were issues with reaching the cap, some
14 additional money, significant money was put into a
15 VEBA to help offset that.

16 Q My question was a little different, and
17 it's really whether or not a plan that imposes
18 100 percent of the costs, by its terms, on
19 participants is less severe than a plan that
20 imposes only 60 percent of the increased costs?

21 MS. BRAULT: Only 60 percent of the
22 increased costs?

1 THE WITNESS: Well, again, you can't
2 just look at that piece as if that's the only
3 thing that happened. I mean, I don't see how you
4 can ignore the VEBA money which helps take it from
5 100 percent to something different.

6 BY MR. ROGACZEWSKI:

7 Q VEBA is not a health benefit, though,
8 is it?

9 A No, but it was put there precisely
10 because it was becoming hard for these folks to --
11 to afford the amount over the cap. I mean,
12 that's -- that's my understanding. So it seems
13 like they should be taken together. They're
14 not -- they're not completely disconnected events,
15 in my opinion.

16 Q Let's talk about Goodyear. How did you
17 acquire information about the Goodyear plans?

18 A Again, I -- I asked counsel for
19 documents they had that would -- that would relate
20 to what happened with their retiree health care.

21 Q When you got the documents about AT&T
22 and Lucent, did you after reviewing them ask for

1 additional information about AT&T and Lucent?

2 A I honestly don't recall whether it came
3 in pieces.

4 Q What about with -- so what you know
5 about AT&T and Lucent comes entirely from
6 information provided by plaintiffs' counsel?

7 A Yes.

8 Q You didn't conduct any independent
9 research?

10 A The information I got seemed pretty
11 clear about what happened.

12 Q You didn't ask any questions about it?

13 A I don't recall.

14 Q Okay. And with Goodyear, the
15 information that you know about Goodyear also
16 comes just from plaintiffs' counsel?

17 MS. BRAULT: Could I just place just
18 the objection and as a clarification that when you
19 talk about, quote, the information that came from
20 plaintiffs' counsel, end quote, you're talking
21 about documents that came from plaintiffs' counsel
22 which have been produced?

1 BY MR. ROGACZEWSKI:

2 Q I'll take the answer.

3 A Yes, it was the documents from
4 plaintiffs' counsel.

5 Q And did you ask any questions after
6 receiving those documents?

7 A I mean, I had conversations with
8 counsel.

9 Q I'm not -- I'm not --

10 A Okay.

11 Q -- I'm not trying to ask about those
12 conversations. I'm just merely trying to
13 understand the degree to which you accepted the
14 information without question.

15 A Well, I accepted the documents were --
16 were correct. I mean, there may have been
17 conversations we had where I was attempting to get
18 clarification to the extent that, you know,
19 counsel was able to provide. I don't remember
20 specific questions.

21 Q And as with AT&T and Lucent, you're not
22 saying Mr. Macey is factually wrong about what

1 happened with Goodyear; correct?

2 A I -- I don't believe that I saw
3 anything factually wrong.

4 Q And you didn't conduct any independent
5 research about Goodyear; correct?

6 A I -- I think the documents seemed to --
7 to provide me what I need.

8 Q Okay. Goodyear is another cap
9 situation; correct?

10 A Yes.

11 Q And in the absence in -- in the absence
12 of a funding vehicle, the caps would have resulted
13 in significant premiums; correct?

14 A Yes.

15 Q And in both Goodyear and AT&T and
16 Lucent, the timing is such that the caps were
17 agreed to and then subsequently the VEBA was
18 agreed to; correct?

19 A That's my understanding.

20 Q So the caps were agreed to without a
21 funding vehicle in place; correct?

22 A It's my understanding that -- yes, but

1 then when there were issues with exceeding the
2 caps, then -- then that led to a funding vehicle
3 to -- to fix the situation.

4 Q Right. You don't disagree that the
5 caps were agreed to in the absence of a funding
6 vehicle?

7 A No, I don't disagree.

8 Q Okay. Let's talk about U.S. Steel.
9 How did you acquire information about the U.S.
10 Steel agreements?

11 A It was -- it's the same answer as the
12 others. I -- I received documents from
13 plaintiffs' counsel.

14 Q Okay. Did you ask for additional
15 information after receiving the documents?

16 A I don't recall that I did.

17 Q Did you conduct any independent
18 research about U.S. Steel?

19 A (Witness reviews document.) I do not
20 believe I did.

21 Q You don't identify anything that
22 Mr. Macey says that is wrong about the U.S. Steel

1 situation -- that is factually incorrect; correct?

2 MS. BRAULT: The record should reflect
3 that we're not looking at Mr. Macey's report.

4 THE WITNESS: Yeah, I -- I don't --

5 MR. ROGACZEWSKI: No, we're looking at
6 Mr. Lynne's rebuttal report.

7 THE WITNESS: No, I don't think there
8 was any -- anything factually incorrect that I
9 found, but, again, it's the same issue of leaving
10 the sort of selective analysis.

11 BY MR. ROGACZEWSKI:

12 Q At the bottom of page 4, there's a
13 quote from the 1975 agreement about pensioners and
14 receiving a -- an individual receiving a surviving
15 spouse's benefits.

16 Do you see that?

17 A Yes.

18 Q How did you come across that language?

19 A It was in a document provided by
20 counsel.

21 Q Now, that provision standing alone has
22 nothing to do with health care benefits; correct?

1 A Well, it talks about how changes can be
2 made to health care benefits.

3 Q And you understand that there is no
4 similar provision in the CNH provision; correct?

5 A Well, I think that's sort of the point.

6 Q And you understand that the Sixth
7 Circuit has held that changes can be made
8 unilaterally by the company; correct?

9 MS. BRAULT: Well, let me place an
10 objection to that's overly broad and ambiguous.

11 THE WITNESS: Not just willy-nilly,
12 they can't.

13 BY MR. ROGACZEWSKI:

14 Q What do you mean?

15 A Well, they can't make any change they
16 want.

17 Q Right. As long as it satisfies the
18 Reese standard; correct?

19 A Right.

20 Q So the fact that an agreement had a
21 limitation that CNH's doesn't have isn't really
22 relevant, is it?

1 A No.

2 Q How did you acquire the information
3 that's in the rebuttal report about Ford?

4 A They were reports that I received from
5 counsel.

6 Q Did you --

7 A Or documents I received.

8 Q Did you do any independent research
9 about Ford?

10 A No.

11 Q Did you react or -- after reviewing the
12 documents provided by plaintiffs' counsel, did you
13 ask for additional information?

14 A I may have gotten Francis' report after
15 reviewing the initial information.

16 Q Did you ask for Francis' report?
17 You're talking about Theo Francis; correct?

18 A Yes.

19 Q Did you ask for Mr. Francis' report?

20 A Yes.

21 Q Specifically?

22 A Well, about the financial condition of

1 one versus the other.

2 Q When did you become aware that
3 Mr. Francis was one of plaintiffs' experts?

4 A I don't recall.

5 Q And did you know Mr. Francis was an
6 expert when you asked for his report?

7 A Well, I didn't know Mr. Francis.

8 Q So you asked --

9 A I was --

10 Q I'm trying --

11 A I was asking for information about --
12 because Mr. Macey was trying to compare the
13 automobile companies, which basically were
14 bankrupt. They were on it as comparisons. So I
15 wanted to understand what I could about CNH's
16 financial position.

17 Q Now -- and what you got in response to
18 that was Mr. Francis' report?

19 A Yes.

20 Q Now, again, you're not identifying
21 anything factually incorrect in Mr. Macey's report
22 about Ford; right?

1 A No, just leaving out.

2 Q In fact, both Ford and GM agreed with
3 UAW to reduce retiree health benefits; right?

4 A It's my understanding they did. I'm
5 not sure what choice they had.

6 Q They -- but they -- they agreed to
7 them; correct?

8 A In a bankruptcy situation.

9 Q It's your understanding that they -- as
10 part of the bankruptcy, that's when the reductions
11 occurred?

12 A I'm sure there were many instances of
13 negotiations as -- as these companies were having
14 trouble.

15 Q GM's bankruptcy was in 2009; correct?

16 A I don't see that I have the date in
17 here.

18 Q Okay. Do you know when GM's bankruptcy
19 occurred?

20 A I don't know the exact date.

21 (Lynne Deposition Exhibit 19 was marked
22 for identification and attached to the

1 transcript.)

2 BY MR. ROGACZEWSKI:

3 Q All right. You have in front of you,
4 Mr. Lynne, a filing made in a court case called,
5 In re: General Motors Corp., pending in the United
6 States Bankruptcy Court for the Southern District
7 of New York, Case Number 09-50026.

8 I'll represent this was also produced
9 by you.

10 Do you recall reviewing this document?

11 A (Witness reviews document.) I don't
12 recall -- recall receiving this; I don't recall
13 that I relied on it.

14 Q Okay. Do you recall reviewing it?

15 A If I did, it was fairly cursory.

16 Q I can't imagine why. It's mind
17 numbing, having read it.

18 Does it refresh your recollection
19 regarding when the GM bankruptcy occurred?

20 A Looks like '09, yes.

21 Q And do you have an understanding as to
22 when GM and Ford first agreed to reductions in

1 THE WITNESS: You know, when I work
2 with my clients, the things that they need to do
3 are certainly dictated at some point by financial
4 conditions.

5 BY MR. ROGACZEWSKI:

6 Q That wasn't an answer to my question.
7 How -- I'll ask it -- I'll ask it in a nonleading
8 way.

9 How is the financial condition of CNH
10 relevant to whether the changes that one wants to
11 make are reasonable in light of changes in health
12 care?

13 A I wasn't trying to make that
14 comparison.

15 Q Okay.

16 A Macey was when comparing CNH to these
17 other companies.

18 Q That's what you under- --

19 A I was simply trying to rebut that part
20 of his argument.

21 Q And that's what you understood
22 Mr. Macey to be doing in that part of his report?

1 A Trying to say that what happened at
2 these auto companies is something that could --
3 could happen at CNH, and that it was a good
4 comparison, which I disagree with.

5 Q How about GM? How did you acquire the
6 information in your rebuttal report regarding GM?

7 A (Witness reviews document.) That was a
8 combination of documents received from counsel,
9 and I believe that was where I looked -- looked up
10 the composition of the VEBA on the UAW Web site.

11 Q The UAW VEBA trust breakdown -- work
12 chart; right?

13 A Right.

14 Q And aside from that, did you do any
15 independent research into the GM situation?

16 A No.

17 Q And aside from the conflation of the
18 UAW VEBA trust with the UAW, did you identify
19 anything incorrect in Mr. Macey's report?

20 A Mr. Macey wasn't -- I don't believe he
21 was clear as to which of the auto companies he was
22 referring to, but he did say that -- he was

1 attempting to say that the UAW made changes to
2 benefits; and, in fact, it was -- the trustees or
3 the administrators of the VEBA, which is
4 different.

5 Q I said aside from that.

6 A Oh, I'm sorry.

7 Q Aside from that.

8 A No.

9 Q But Mr. Macey isn't wrong about the
10 terms that the UAW retirees are -- that -- that --
11 the terms of their benefits under the UAW VEBA as
12 set by the UAW VEBA trust; correct?

13 A No, no.

14 Q And, so, with the exception of the
15 research, you did everything that's in your --
16 everything you understand about GM came from
17 plaintiffs' counsel; correct?

18 MS. BRAULT: You mean in documents from
19 plaintiffs' counsel?

20 THE WITNESS: Yes.

21 BY MR. ROGACZEWSKI:

22 Q And the same thing I'm saying would be

1 true for Ford; correct?

2 A Yes.

3 Q Now, you make a -- a big point about
4 the connection of the Ford and the GM changes to
5 bankruptcy; correct?

6 A I think it makes the comparison. Not a
7 very good one, yeah.

8 Q GM's changes were made four years
9 before it went into bankruptcy; correct?

10 A It was all part of their -- I viewed it
11 as a -- as all a part of the agreements that were
12 made as the company was going down hill.

13 Q So you look at -- you take together the
14 '05 agreement, the '07 agreement and the
15 bankruptcy and put them all together?

16 A Yes.

17 Q You understand, correct, that the VEBA
18 that GM agreed to was not part of the original
19 agreement; right? That -- that came second in
20 time?

21 MS. BRAULT: I'm going to place an
22 objection: form.

1 THE WITNESS: I mean, I'm not sure that
2 to me the timing was as important as the fact that
3 these things were done with companies that were in
4 such dire financial straits.

5 BY MR. ROGACZEWSKI:

6 Q Well, I understand your -- your -- I
7 understand your opinion on that. Now I'm thinking
8 about it -- this question is focusing on something
9 different, which is the connection of the funding
10 vehicle to the benefit changes. And I think you
11 said before that it was important that the funding
12 vehicle -- although it's not a health benefit --
13 was negotiated as -- as -- or changed at the same
14 time as the health care change; is that correct?

15 A That's my understanding.

16 Q And in GM that wasn't the case;
17 correct?

18 A I'm not sure.

19 (Lynne Deposition Exhibit 21 was marked
20 for identification and attached to the
21 transcript.)

22 BY MR. ROGACZEWSKI:

1 Q You have in front of you what has been
2 marked as Exhibit 21 which is a -- a -- I don't
3 know if it's an article or a press release, but
4 it's from the UAW's Web site. It's entitled, UAW,
5 union retirees found proposed settlements
6 establishing VEBA trust.

7 Since it doesn't have a Bates number,
8 I'll make sure the record is clear you did not
9 produce this document.

10 The first paragraph says, The UAW,
11 along with UAW retirees, has filed a proposed
12 settlement of health care claims against --
13 against GM. If approved by the U.S. District
14 Court, the settlement will establish an
15 independent VEBA trust which will pay health
16 benefits for current and future UAW GM retirees.

17 Did I read that correctly?

18 A Yes.

19 Q Is that consistent with your
20 understanding as to when the UAW GM VEBA was
21 negotiated and then established?

22 A Yes.

1 Q Four paragraphs down the article says,
2 A similar case was filed in 2005, and the UAW and
3 GM agreed to modify health care benefits for
4 retirees.

5 Did I read that correctly?

6 A Yes.

7 Q Is that consistent with your
8 understanding that the first agreement reduced
9 changes -- reduced health care benefits and then
10 two years later a subsequent agreement established
11 the funding mechanism?

12 A Yes.

13 Q In the case of GM, the -- the funding
14 mechanism was not part of the agreement that
15 changed their health care benefits; correct?

16 MS. BRAULT: I'm just going to place an
17 objection to the extent that you're conflating
18 events, and -- and I object to the form to the
19 extent that you're assuming facts not in evidence,
20 that -- that something occurs at -- at a specific
21 point in time rather than over time.

22 THE WITNESS: Again, the point I was

1 trying to make, Macey brings up these examples,
2 and these examples are -- in these other examples
3 there were agreements made or there was bankruptcy
4 or there were preexisting caps. With CNH, there
5 was no bankruptcy. There was no agreement. Caps
6 were negotiated out.

7 I'm just trying to say that I don't
8 think these comparisons -- he left out some things
9 in his comparisons that make them not good
10 comparisons.

11 We're trying to look at what the court
12 says needs to be done comparing it to other
13 situations. It's not a good comparison.

14 BY MR. ROGACZEWSKI:

15 Q The court -- and we've talked about
16 already two of the three Reese factors. The third
17 one is whether the proposed plan is roughly
18 consistent with other plans.

19 Why -- how is the financial condition
20 of CNH relevant -- or the financial condition of
21 GM relevant to whether the terms or the benefit
22 plans are roughly consistent with each other?

1 ACKNOWLEDGMENT OF DEPONENT

2 I, Mark L. Lynne, do hereby acknowledge
3 that I have read and examined the foregoing
4 testimony, and the same is a true, correct and
5 complete transcription of the testimony given by
6 me and any corrections appear on the attached
7 Errata sheet signed by me.

8

9

10

11

12 (DATE)

(SIGNATURE)

13

14

15 CERTIFICATE OF NOTARY PUBLIC

16 Sworn and subscribed to before me this

17 _____ day of _____, _____

18

19

20

21 NOTARY PUBLIC

MY COMMISSION EXPIRES

22


1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Dana C. Ryan, Registered Professional
3 Reporter, Certified Realtime Reporter, the officer
4 before whom the foregoing proceedings were taken
5 do hereby certify that the foregoing transcript is
6 a true and correct record to the best of my
7 ability of the proceedings; that said proceedings
8 were taken by me stenographically and thereafter
9 reduced to typewriting under my supervision; and
10 that I am neither counsel for, related to, nor
11 employed by any of the parties to this case and
12 have no interest, financial or otherwise, in its
13 outcome.

14 IN WITNESS WHEREOF, I have hereunto set
15 my hand and affixed my notarial seal this 24th day
16 of January 2014.

17 My Commission expires:

18 May 17, 2017

19 
20 _____

21 NOTARY PUBLIC IN AND FOR THE
22 STATE OF MARYLAND